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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

NATHAN ALLEN HUYCK,

Defendant and Appellant.

E056492

(Super.Ct.No. BAF1100367)

OPINION

APPEAL from the Superior Court of Riverside County. Gary B. Tranbarger,
Judge. Affirmed with directions.

Jesse W.J. Male, under appointment by the Court of Appeal, for Defendant and
Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney
General, Julie L. Garland, Assistant Attorney General, and Holly D. Wilkens, Deputy
Attorney General, for Plaintiff and Respondent.

Following a jury trial, defendant and appellant Nathan Allen Huyck was found guilty of one count of arson of an inhabited structure in violation of Penal Code¹ section 451, subdivision (b), and one count of arson of property in violation of section 451, subdivision (d). He was sentenced to state prison for a total term of eight years. The court further ordered him to pay a restitution fine (§ 1202.4, subd. (b)) and a parole revocation restitution fine (§ 1202.45) stating: “Restitution fine of \$200 is set. Parole revocation restitution fine is set.”²

Defendant contends in this appeal that the sentencing minute order and the abstract of judgment are inaccurate, showing that the court imposed both a \$1,000 restitution fine and a \$1,000 parole revocation fine. The People concede that the transcript of the oral proceedings indicates that the restitution fine ordered is \$200 and that both documents should be corrected to reflect that amount. As both parties point out, the oral pronouncement controls where there is a discrepancy between it and the minute order and/or the abstract of judgment. (*People v. Zackery* (2007) 147 Cal.App.4th 380, 385.)

The People contend, however, that the matter is not so clear with respect to the parole revocation restitution fine because the court did not indicate the exact amount of the fine. Not only do the minute order and abstract of judgment state that the fine is \$1,000, but the People also point out that the probation report recommended a \$1,000 parole revocation restitution fine, as well as a restitution fine. Accordingly, the People

¹ All further statutory references are to the Penal Code unless otherwise specified.

² It is not necessary to set forth a detailed statement of the facts of this case in light of the single issue defendant raises.

suggest that the case be remanded back to the superior court for clarification of this issue only.

A remand is not necessary. Section 1202.45 requires that the parole revocation restitution fine be set in the same amount as the restitution fine under section 1202.4, subdivision (b). The court stated that the amount of the latter fine was \$200 and said the parole revocation restitution fine “is set.” In this content, it must be concluded that the sentencing court set both fines at \$200.

DISPOSITION

The superior court clerk is directed to correct the abstract of judgment and sentencing minute order to indicate that the court imposed a restitution fine in the amount of \$200 and a parole revocation restitution fine in the amount of \$200. It must then forward corrected copies of the abstract of judgment and sentencing minute order to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

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KING
J.

We concur:

RICHLI
Acting P. J.

MILLER
J.